

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-against-

RICHARD XIA, a/k/a YI XIA; and
FLEET NEW YORK METROPOLITAN REGIONAL
CENTER, LLC, f/k/a FEDERAL NEW YORK
METROPOLITAN REGIONAL CENTER, LLC;

Defendants,

v.

JULIA YUE, a/k/a JIQING YUE, XI VERFENSTEIN,
and XINMING YU,

Relief Defendants.

21 Civ. 5350 (PKC)

**DEFENDANTS' AND RELIEF DEFENDANT YUE'S
JOINDER IN RELIEF REQUESTED**

Defendants and Relief Defendant Julia Yue, by and through their undersigned counsel, hereby submit this joinder solely in the relief requested in the Monitor's motion for approval to release funds for necessary berm maintenance work. ECF No. 267.

Defendants and Relief Defendant Yue agree that monthly berm maintenance at the construction project located at 112-21 Northern Boulevard, Queens, New York 11368 (the "Eastern Emerald Project") for a period of at least twelve months; that Security Fence Systems Inc. ("SFS") should be retained to provide the necessary berm maintenance; and that Mueser

Rutledge Consulting Engineers PLLC (“MRCE”) are qualified¹ and should be continue providing necessary supervision over the berm maintenance service and to provide required monthly monitoring and berm inspection reports to the New York City Department of Buildings (“DOB”). Defendants and Relief Defendant Yue agree that funds necessary to pay SFS and MRCE should be released from frozen accounts of Defendants or the Xia Entities for the purpose of paying for these services.

Defendants and Ms. Yue object to the self-serving statements in the Monitor’s Declaration in support of the Monitor’s motion for approval to release funds for necessary berm maintenance work. ECF No. 267-2. In particular, the Monitor Order does not authorize or empower the Monitor to select or review which contractors may perform work at the Eastern Emerald Project. Moreover, the Monitor only addressed berm maintenance at all after Defendants’ counsel repeatedly demanded over several months that he do so.

Since Defendants’ and the Xia Entities’ assets were frozen on September 27, 2021, Relief Defendant Xi Verfenstein, through her corporate entities, acting as General Contractor for the Eastern Emerald Project, has been performing the necessary berm maintenance at substantial expense and without compensation of any kind. During that same time period, MRCE, acting as a sub-contractor, has been performing the necessary engineering and inspection work for the berm maintenance. But for the work performed by Ms. Verfenstein and MRCE to date, the City of New York would have ordered the massive excavation (following the massive decontamination which has earned \$84 million in brownfield tax credits) at the construction site to be back-filled. Until only recently, the Monitor repeatedly refused to acknowledge the need for their work or the work

¹ MRCE is one of the country’s foremost geotechnical and engineering firms. Their qualifications are impeccable, beyond doubt, and do not require ‘vetting’ by the Monitor.

they have done and has refused to support a release of funds to pay for the work they performed to protect the Eastern Emerald Project, and the investors therein, or even to pay them *quantum meruit* for the work they have diligently performed.

Defendants and Ms. Yue prefer that the General Contractor be permitted to continue to perform and be compensated for the necessary berm maintenance. Nevertheless, because of the urgent need for berm maintenance to be performed, Defendants and Ms. Yue consented to the Monitor's demand that SFS be retained to perform the berm maintenance only on the express condition that MRCE be permitted to continue in the capacity it has been serving to supervise, monitor, and inspect the berm maintenance work.

Dated: March 10, 2023

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